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ACTION
OCA 87-2587

OFFICE OF CONGRESSIONAL AFFAIRS

Routing Slip

	ACTION	INFO
1. D/OCA		X
2. DD/Legislation	XX	
3. DD/Senate Affairs		X
4. Ch/Senate Affairs		
5. DD/House Affairs		X
6. Ch/House Affairs		
7. Admin Officer		
8. Executive Officer		
9. FOIA Officer		
10. Constituent Inquiries Officer		
11		X
12.		

SUSPENSE ~~XXX~~ 30June87
Date

Action Officer:

Remarks: Per telecon to OMB on 7-1-87, "no objections" comment relayed.

cmc 18 June 87
Name/Date

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SPECIAL

87-2587

June 17, 1987

LEGISLATIVE REFERRAL MEMORANDUM

TO: **Legislative Liaison Officer -**
Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Department of the Treasury
Council of Economic Advisers
Agency for International Development
Central Intelligence Agency
Environmental Protection Agency
General Services Administration
National Aeronautics and Space Administration
Small Business Administration
U.S. Information Agency
Veterans Administration

SUBJECT: OPM draft bill, "Federal Merit Pay Amendments of 1987."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than Tuesday, June 30, 1987. This is OPM's proposal to implement a recommendation in the 1988 budget and needs to be handled expeditiously.

Questions should be referred to Gail Webber (395-5017), or to Hilda Schreiber (395-7362), the legislative analyst in this office.

Jeffrey A. Weinberg for
Assistant Director for
Legislative Reference

Enclosures

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UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

Office of the Director

SUBMITTED FOR APPROVAL JUN 15 1987 TO
THE OFFICE OF MANAGEMENT AND BUDGET

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

The Office of Personnel Management has prepared the enclosed legislative proposal, entitled the "Federal Merit Pay Amendments of 1987." We respectfully request that this proposal be referred to the appropriate committee for early consideration.

This legislative proposal would implement a recommendation made by President Reagan in his fiscal year 1988 budget message, where he asked Congress to approve this new plan to transform the current system of virtually automatic within-grade salary increases into a system that is performance-oriented, in order to give Federal employees a stronger incentive to improve service delivery.

Under the Civil Service Reform Act and Title II of Public Law 98-615, the Government's senior career executives and middle managers, respectively, have been paid under performance-oriented systems of rewards, designed for those two categories of employees, and the results have been successful. We believe it is now time to move beyond these two high-level groups and allow the incentives of a "merit pay" approach to apply to the rest of the work force as well. The enclosed legislative proposal would do this by replacing the current within-grade increase system with a system of basic pay increases modeled after the Performance Management and Recognition System (PMRS) that has been successful for the Government's middle managers. Like PMRS, this system would be based on a meaningful, objective performance appraisal system, the results of which would determine the size of an employee's pay increase each year.

All employees who are rated "fully successful" or better would receive the general pay increase each year, while employees whose performance is less than fully successful would receive one-half of the general increase, and employees whose performance is unacceptable would receive no increase at all.

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In addition to these merit-based shares of the general pay increase, employees whose performance is fully successful or better would receive additional increases each year that would advance them through the rate ranges for their grades. In the lower third of the rate range, all employees who are fully successful or better would receive an additional increase each year that would be equivalent to a current within-grade increase. In the upper two-thirds of the rate range, outstanding performers would continue to receive a within-grade equivalent each year (instead of every two or three years, as they now do), while employees who are rated "exceeds fully successful" will get one-half of a within-grade equivalent, and employees who are rated "fully successful" will get one-third. In addition, all employees who receive ratings of "fully successful" or better will be eligible to receive lump-sum cash awards.

This combination of merit-based general pay increases, advancement through the rate range, and cash awards has been successful for the Government's middle managers under PMRS, the system designed for them, and we believe a modified system in our proposal for lower level and nonmanagerial employees will be as successful in encouraging quality performance in the Federal work force.

Accordingly, we urge Congress to enact the enclosed proposal.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President.

A similar letter is being sent to the Speaker of the House of Representatives.

Sincerely,

Enclosures

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UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

Office of the Director

Honorable James C. Wright, Jr.
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

The Office of Personnel Management has prepared the enclosed legislative proposal, entitled the "Federal Merit Pay Amendments of 1987." We respectfully request that this proposal be referred to the appropriate committee for early consideration.

This legislative proposal would implement a recommendation made by President Reagan in his fiscal year 1988 budget message, where he asked Congress to approve this new plan to transform the current system of virtually automatic within-grade salary increases into a system that is performance-oriented, in order to give Federal employees a stronger incentive to improve service delivery.

Under the Civil Service Reform Act and Title II of Public Law 98-615, the Government's senior career executives and middle managers, respectively, have been paid under performance-oriented systems of rewards, designed for those two categories of employees, and the results have been successful. We believe it is now time to move beyond these two high-level groups and allow the incentives of a "merit pay" approach to apply to the rest of the work force as well. The enclosed legislative proposal would do this by replacing the current within-grade increase system with a system of basic pay increases modeled after the Performance Management and Recognition System (PMRS) that has been successful for the Government's middle managers. Like PMRS, this system would be based on a meaningful, objective performance appraisal system, the results of which would determine the size of an employee's pay increase each year.

All employees who are rated "fully successful" or better would receive the general pay increase each year, while employees whose performance is less than fully successful would receive one-half of the general increase, and employees whose performance is unacceptable would receive no increase at all.

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This combination of merit-based general pay increases, advancement through the rate range, and cash awards has been successful for the Government's middle managers under PMRS, the system designed for them, and we believe a modified system in our proposal for lower level and nonmanagerial employees will be as successful in encouraging quality performance in the Federal work force.

Accordingly, we urge Congress to enact the enclosed proposal.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President.

A similar letter is being sent to the President of the Senate.

Sincerely,

Enclosures

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STATEMENT OF PURPOSE AND JUSTIFICATION

to accompany a bill

To amend title 5, United States Code, to provide a system of performance-based pay increases for the General Schedule work force, and for other purposes.

President Reagan, in his fiscal year 1988 budget message, called on Congress to approve a new plan to transform the current system of virtually automatic within-grade salary increases for Federal employees into a system that is performance-oriented, in order to give these employees a stronger incentive to improve service delivery.

This proposal follows on a decade of growing use of pay for performance in the Federal Service. Under the Civil Service Reform Act and Title II of Public Law 98-615, the Government's senior career executives and middle managers, respectively, have been paid under performance-oriented systems of rewards, designed for those two categories of employees, and the results have been successful. It is now time to move beyond these two high-level groups and allow the incentives of a "merit pay" approach to apply to the rest of the work force as well.

This legislative proposal would replace the current within-grade increase system with a system of basic pay increases modeled after the Performance Management and Recognition System (PMRS) that has been successful for the Government's middle managers. Like PMRS, this system would be based on a meaningful, objective performance appraisal system, the results of which would determine the size of an employee's pay increase each year.

All employees who are rated "fully successful" or better would receive the general pay increase each year, while employees whose performance is less than fully successful would receive one-half of the general increase, and employees whose performance is unacceptable would receive no increase at all. In addition to these performance-based shares of the general pay increase, employees whose performance is fully successful or better would receive additional increases each year that would advance them through the rate ranges for their grades. In the lower third of the rate range, all employees who are fully successful or better would receive an additional increase each year that would be equivalent to a current within-grade increase. In

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the upper two-thirds of the rate range, outstanding performers would continue to receive a within-grade equivalent each year (instead of every two or three years, as they now do), while employees who are rated "exceeds fully successful" would get one-half of a within-grade equivalent, and employees who are rated "fully successful" would get one-third. In addition, all employees who receive ratings of "fully successful" or better will be eligible to receive lump-sum cash awards.

This combination of performance-based general pay increases, merit increase advancement through the rate range, and cash awards has been successful for the Government's middle managers under PMRS, and the modified system in this proposal for lower level and nonmanagerial employees will be as successful in encouraging quality performance in the remainder of Federal work force.

This new system would be essentially budget-neutral, costing only an estimated one-tenth of one percent of payroll more than the current system, a cost that would be recovered many times over in the greater efficiency and effectiveness of work that would result from the motivational effect of the new system.

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A BILL

To amend title 5, United States Code, to provide a system of performance-based pay increases for the General Schedule work force, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Merit Pay Amendments of 1987".

Sec. 2. Chapter 53 of title 5, United States Code, is amended as follows:

(1) in section 5335(a), by deleting "paid on an annual basis, and occupying a permanent position within the scope of the General Schedule" and inserting in lieu thereof "occupying a permanent position subject to this subchapter, and who is not covered by section 5337";

(2) in section 5336(c), by striking out "covered by" and inserting in lieu thereof "covered by section 5337,";

(3) by inserting a new section 5337, to read as follows:

"§5337. Performance-based increases

"(a)(1) Except as provided in paragraphs (2), (3), or (4) of this subsection, this section shall apply to any employee occupying a position subject to this subchapter.

"(2)(A) Upon request filed under subparagraph (C) of this paragraph, the President may, in writing, exclude an agency, any unit of an agency, or any class of employees within any such unit, from the application of this section, if the President considers such exclusion to be required as a result of conditions arising from--

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"(i) the recent establishment of the agency, unit, or class, or the implementation of a new program;

"(ii) an emergency situation; or

"(iii) any other situation or circumstance.

"(B) Any exclusion under this paragraph shall not take effect earlier than 30 calendar days after the President transmits to each House of the Congress a report describing the agency, unit, or class to be excluded and the reasons therefor.

"(C) A request for exclusion of an agency, any unit of an agency, or any class of employees within any such unit, under this paragraph shall be filed by the head of the agency with the Office of Personnel Management, and shall set forth reasons why the agency, unit, or class should be excluded from the application of this section. The Office shall review the request and reasons therefor, undertake such other review as it considers appropriate to determine whether the agency, unit, or class should be excluded from the application of this section and, upon completion of its review, recommend to the President whether the agency, unit, or class should be so excluded.

"(D) Any agency, unit, or class which is excluded pursuant to this paragraph shall, insofar as practicable, make a sustained effort to eliminate the conditions on which the exclusion is based.

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"(E) The Office shall periodically review any exclusion from coverage and may at any time recommend to the President that an exclusion under this paragraph be revoked. The President may at any time revoke, in writing, any exclusion under this paragraph.

"(F) The Office shall prescribe regulations under which an employee may be excluded from the application of this section other than as part of an agency, unit, or class so excluded under the preceding subparagraphs of this paragraph. To the extent practicable, the regulations shall be based on the provisions of such subparagraphs.

"(3) This section shall not apply to individuals employed under the Office of the Architect of the Capitol, the Library of Congress, the Botanic Garden, or the Administrative Office of the United States Courts.

"(4) This section shall not apply to an administrative law judge, or to an individual appointed by the President, by and with the advice and consent of the Senate.

"(b)(1) For purposes of this section, a pay adjustment period, in the case of an employee covered by this section, shall be the period beginning on the first day of the first pay period applicable to such employee commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title and ending at the close of the day before the beginning of the following pay adjustment period.

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"(2) A determination concerning a general pay increase under this section shall, for any pay adjustment period, be made on the basis of the level of performance of the employee involved, as determined for the latest appraisal period under section 4302 of this title (or an equivalent rating system) before the beginning of such pay adjustment period.

"(3) Subject to subsection (d)(1)(A)(i) of this section, if the employee's performance is rated--

"(A) at the fully successful level or either of the 2 levels above the fully successful level, the rate of basic pay of the employee shall be increased by the full general pay increase, effective as of the beginning of the pay adjustment period;

"(B) at the level 1 level below the fully successful level, the rate of basic pay of the employee shall be increased by one-half of the full general pay increase, effective as of the beginning of the pay adjustment period; or

"(C) at the level 2 levels below the fully successful level, the rate of basic pay of the employee shall not be increased under this subsection.

"(4) A full general pay increase for any pay adjustment period under this subsection shall be determined by applying to the rate of basic pay of the employee involved on the day immediately preceding the pay adjustment period the

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appropriate percentage corresponding to the applicable adjustment under section 5305 of this title to positions not covered by this section which are in the same grade as the position held by such employee.

"(5)(A) The basic pay of an employee for whom a determination under section 4302 of this title (or an equivalent rating system) for the latest appraisal period is not available shall be adjusted under this subsection in such circumstances as the Office of Personnel Management shall by regulation prescribe.

"(B) Any adjustment made under this paragraph shall be equal to an adjustment under paragraph (3)(A) of this subsection.

"(c)(1) For purposes of this subsection--

"(A) the term 'applicable reference rate', as used with respect to the rate of basic pay of an employee, means the rate equal to the sum of--

"(i) the minimum rate of basic pay provided under section 5332 of this title for the grade of the position held by such employee; and

"(ii) one-third of the difference between the maximum rate of basic pay provided for such grade under such section and the minimum rate of basic pay so provided;

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"(B) the term 'merit increase' means, with respect to a grade, an increase equal to one-ninth of the difference between the maximum rate of basic pay provided for such grade under section 5332 of this title and the minimum rate of basic pay so provided;

"(C) a reference to the performance rating of an employee shall, for purposes of any increase which may take effect under this subsection in a year, be considered to be a reference to the level of performance of such employee, as determined for the latest appraisal period under section 4302 of this title (or an equivalent rating system) before the effective date of such increase; and

"(D) the term 'anniversary date' means the date one year after the employee last received an increase under this subsection (or was eligible for but failed to receive such an increase, as provided in paragraph (3)(B) of this subsection), an increase under section 5335 of this title, or an increase that would be an equivalent increase under section 5335.

"(2) Subject to subsection (d)(1)(A)(i), and under regulations prescribed by the Office of Personnel Management, the rate of basic pay of an employee covered by this section shall be increased each year in accordance with

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the applicable provisions of paragraph (3) of this subsection, effective as of the beginning of the first applicable pay period commencing on the employee's anniversary date.

"(3)(A)(i) If the rate of basic pay of the employee does not equal or exceed the applicable reference rate on the day before the effective date of an increase under this subsection, and the performance of such employee is rated at the fully successful level or either of the 2 levels above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to a merit increase.

"(ii) If the rate of basic pay of the employee equals or exceeds the applicable reference rate on the day before the effective date of an increase under this subsection, and the performance of such employee is rated--

"(I) at the level 2 levels above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to a merit increase;

"(II) at the level 1 level above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-half of a merit increase; or

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"(III) at the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-third of a merit increase.

"(B) The rate of basic pay of an employee whose performance is rated at either of the 2 levels below the fully successful level shall not be increased under this subsection for the year involved.

"(4) The Office of Personnel Management shall prescribe regulations under which this subsection shall be applied in the case of an employee for whom a determination under section 4302 of this title (or an equivalent rating system) for the latest appraisal period is not available.

"(d)(1)(A) An employee covered by this section--

"(i) may not be paid at a rate greater than the maximum rate of basic pay for the grade of the employee's position, as set forth in section 5332 of this title; and

"(ii) except as provided in subparagraph (B) of this subsection, may not be paid at a rate less than the minimum rate of basic pay for such grade, as set forth in section 5332 of this title.

"(B) An employee may be paid at a rate less than the minimum rate of basic pay for the grade of such employee's position to the extent that payment of the lesser rate is the result of the employee having received less than a full general pay increase under subsection (b) of this section.

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"(2) Any employee whose position is brought under this section shall, so long as the employee continues to occupy the position, be entitled to receive basic pay at a rate of basic pay not less than the rate the employee was receiving when the position was brought under this section, plus any subsequent increases under subsections (b) and (c) of this section.

"(3) The Office of Personnel Management shall prescribe regulations governing the method by which an increase under subsections (b) and (c) of this section shall be made in any case in which both of those increases are to take effect beginning on the same date.

"(4) Under regulations which the Office shall prescribe, the benefit of advancement through the range of basic pay for a grade shall be preserved for any employee who is covered by this section and whose continuous service is interrupted in the public interest by service in the Armed Forces, or by service in essential non-Government civilian employment during a period of war or national emergency.

"(5) For the purpose of section 5941 of this title, rates of basic pay of employees covered by this section shall be considered rates of basic pay fixed by statute.

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"(6) In the case of an employee covered by this section for whose position a higher rate of basic pay has been established under section 5303 of this title, any reference in this chapter to a rate of basic pay provided under or set forth in section 5332 of this title shall be deemed to be a reference to the corresponding rate of basic pay established under such section 5303."; and

(4) in the analysis for chapter 53 by inserting after the item relating to section 5336 the following:

"5337. Peformance-based increases.".

Sec. 3. Section 4302 of title 5, United States Code, is amended--

(1) by deleting the semicolon at the end of subsection (a) and inserting in lieu thereof a period; and

(2) by inserting after subsection (b) the following new subsection:

"(c) In the case of any employee subject to section 5337 of this title, and in accordance with regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for five levels of summary performance ratings as follows:

"(1) two levels which are above the fully successful level;

"(2) a fully successful level; and

"(3) two levels which are below the fully successful level.".

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Sec. 4. Section 4503 of title 5, United States Code, is amended by adding at the end thereof (after and below subparagraph (2)) the following:

"An employee who is subject to section 5337 of this title may receive a cash award under this section for superior accomplishment in the performance of the duties of the employee's position only if the employee's performance is appraised at or above the fully successful level.".

Sec. 5. (a) Except as provided in subsection (b) of this section, the amendments made by this section are effective on October 1, 1987.

(b) In the case of an employee who, on October 1, 1987, occupies a position subject to section 5337 of title 5, United States Code, as added by section 2 of this Act, and who remains continuously so employed, the amendments made by this Act shall become applicable to such employee only after the employee completes the employee's waiting period in effect on October 1, 1987, under section 5335(a) of title 5, United States Code, or otherwise receives an increase in pay that would be an equivalent increase under section 5335(a).

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SECTION ANALYSIS

to accompany a bill

To amend title 5, United States Code, to provide a system of performance-based pay increases for the General Schedule work force, and for other purposes.

The first section provides a title for the bill, the "Federal Merit Pay Amendments of 1987."

Section 2 consists of amendments to chapter 53 of title 5, United States Code. Paragraphs (1) and (2) exclude employees covered by the new Performance-Based Increase system from coverage under the periodic step-increase and additional step-increase provisions of the General Schedule.

Paragraph (3) of section 2 of the bill adds a new section 5337 to the law, entitled "Performance-based increases." Subsection (a) of new section 5337 concerns the coverage of this new section. It would apply to all employees subject to the current General Schedule within-grade system except administrative law judges; individuals appointed by the President with Senate confirmation; General Schedule employees in the legislative and judicial branches; and employees in agencies, units, or classes excluded by the President upon the recommendation of the agency head involved and the Office of Personnel Management.

Subsection (b) of new section 5337 concerns the performance-based application of general pay increases for the General Schedule to employees subject to section 5337. At the time of a general pay increase, employees rated "fully successful" or better will get the full increase; employees rated one level below "fully successful" will get one-half of the increase; and employees rated two levels below "fully successful" will get no increase.

Subsection (c) of new section 5337 concerns additional merit increases that will occur on the employee's anniversary date, that is, one year from his or her last such increase or other equivalent increase, such as a promotion. Employees with "fully successful" or better ratings in the lower third of the rate range for their grade will receive a merit increase equivalent to a within-grade increase each year; employees with lower ratings will not receive an increase. In the upper two-thirds of the rate range, employees with

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"outstanding" ratings will receive an increase equivalent to a within-grade each year; employees with a rating of "exceeds fully successful" will receive one-half of a within-grade increase each year; for employees rated "fully successful," the increase will be one-third of a within-grade increase.

Subsection (d) of new section 5337 provides general rules for the new system, such as a prohibition on paying any employee more than the maximum rate of the General Schedule rate range, and a provision permitting the application of special rates to these employees.

Paragraph (4) of section 2 of the bill amends the chapter analysis for chapter 53 of title 5 to add the new section 5337.

Section 3 of the bill amends section 4302 of title 5, United States Code, concerning performance appraisals, to ensure that appraisals for employees subject to the new system will appropriately support the necessary pay decisions under new section 5337, by defining five levels of performance.

Section 4 of the bill amends section 4503 of title 5, United States Code, concerning cash awards, to make clear that employees who are subject to the new system may be given cash awards on the basis of performance only if they are appraised as "fully successful" or better.

Section 5 of the bill provides that the amendments made by the bill are generally to be effective on October 1, 1987, but will first apply to current General Schedule employees only after they receive their next within-grade increase or other equivalent increase. Thus, the coverage of the new system will be phased in over the next three years, as all current General Schedule employees remain under the current system, including the current quality step-increase authority, until they complete their current General Schedule waiting period.

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